



"Knox, Rosemary (DEP)"
<Rosemary.Knox@state.ma.us>

08/21/2007 11:38 AM

To Ellen Weitzler/R1/USEPA/US@EPA

cc

bcc

Subject RE: MCP questions

Ellen please note that following notification exemption in 40.0317(3).

40.0317: Releases and Threats of Release Which Do Not Require Notification

Notwithstanding the provisions of 310 CMR 40.0311 through 40.0315, the following releases and threats of release of oil and/or hazardous material are exempt from the notification requirements set forth in 310 CMR 40.0300:

(1) releases of oil that occur during normal handling and transfer operations at an oil facility, if the releases are completely captured by a properly functioning oil/water separator; provided, however, that releases of oil which exceed the capacity of the oil/water separator, and that releases of oil from the oil/water separator, itself, in excess of its discharge permit limits, shall be subject to the notification requirements set forth in 310 CMR 40.0300;

(2) releases or threats of release of gasoline or diesel fuel that result from the rupture of the fuel tank of a passenger vehicle as a result of an accident involving that vehicle;

(3) releases of oil and/or hazardous material that are discharged or emitted from an outfall, stack or other point source, or as fugitive emissions, any of which are regulated under and have received a valid permit, license, or approval, or which are operating under a valid registration, order or guideline issued under a federal or state statute or regulation, unless the release:

(a) exceeds the amount allowed by the permit, license, approval, registration, order or guideline; and

(b) represents an Imminent Hazard to health, safety, public welfare or the environment. This provision shall not relieve any person from any other duty to notify which may exist under any other statute or regulation, nor shall it in any way limit the authority of any other agency, political subdivision or authority of the federal or state government or of any office or division of the Department to enforce or otherwise carry out the duties assigned to it by law;

-----Original Message-----

From: Weitzler.Ellen@epamail.epa.gov
[mailto:Weitzler.Ellen@epamail.epa.gov]
Sent: Monday, August 20, 2007 4:17 PM
To: Knox, Rosemary (DEP)
Subject: MCP questions

Rose,

I found the section I was looking for in the MCP (see below). Since a

release to the stormwater drainage system of oil and hazardous materials is a release that requires notification within 2 hours (CMR 40.0311(8)), I would assume that the MCP intends such a release to be mitigated. So far ExxonMobil has taken no action to stop this release, such as inspecting and lining their very old and leaking drainage pipes. This is the only mention of stormwater drainage systems I could find in the MCP, but it seems to follow that a longer term (more than 24- hours) release that creates a sheen on the stormwater collected in the system (as described in 310 CMR 40.0311(5)), where otherwise none would be, should also be mitigated. Obviously I shouldn't assume, so the questions are (at a minimum!):

Under the MCP, are attempts at source control adequate here given that the release seems to continue in spite of source control actions already taken?

Is stormwater considered surface water under the MCP?

I'll send you the comment letter first thing tomorrow.

Thanks.

Ellen

40.0311: Releases Which Require Notification Within Two Hours

Except as provided in 310 CMR 40.0317 or 310 CMR 40.0332(1) or (7), persons required to notify under 310 CMR 40.0331 shall notify the Department as soon as possible but not more than two hours after obtaining knowledge that a release meets one or more of the following sets of criteria:

(1) a sudden, continuous or intermittent release to the environment of any hazardous material that is listed at 310 CMR 40.1600 or that exhibits one or more of the characteristics described in 310 CMR 40.0347, when:

- (a) the quantity of the release is equal to or greater than the applicable Reportable Quantity specified at 310 CMR 40.0352 or 40.1600; and
- (b) it is likely that the release occurred within any period of 24 consecutive hours or less;

(2) a sudden, continuous or intermittent release to the environment of any hazardous material that is listed at 310 CMR 40.1600 or that exhibits one or more of the characteristics described in 310 CMR 40.0347, when:

- (a) the quantity of the release is unknown;
- (b) it is likely that the quantity of the release is equal to or greater than the applicable Reportable Quantity specified at 310 CMR 40.0352 or 40.1600; and
- (c) it is likely that the release occurred within any period of 24 consecutive hours or less;

(3) a sudden, continuous or intermittent release to the environment of oil that is listed at 310 CMR 40.1600 when:

- (a) the quantity of the release is equal to or greater than the applicable Reportable Quantity specified at 310 CMR 40.0351 or 310 CMR 40.1600; and
- (b) it is likely that the release occurred within any period of 24 consecutive hours or less;

(4) a sudden, continuous or intermittent release to the environment

of oil that is listed at 310 CMR 40.1600, when:

- (a) the quantity of the release is unknown;
- (b) it is likely that the quantity of the release is equal to or greater than the applicable Reportable Quantity specified at 40.1600; and
- (c) it is likely that the release occurred within any period of 24 consecutive hours or less;

(5) a sudden, continuous or intermittent release to the environment of any quantity of oil or waste oil that is listed at 310 CMR 40.1600 that results in the appearance of a sheen on surface water;

(6) a release to the environment indicated by the measurement of oil and/or hazardous material in a private drinking water supply well at concentrations equal to or greater than a Category RCGW-1 Reportable Concentration, as described in 310 CMR 40.0360 through 40.0369 and listed at 40.1600;

40.0311: continued

(7) any release of any oil and/or hazardous material, in any quantity or concentration, that poses or could pose an Imminent Hazard, as described in 310 CMR 40.0321 and 40.0950;

(8) any release of oil and/or hazardous material described in 310 CMR 40.0311(1) through (4) or 310 CMR 40.0311(7) that is indirectly discharged to the environment by means of discharge to a stormwater drainage system;

(9) any release of oil and/or hazardous material described in 310 CMR 40.0311(7) that is indirectly discharged into the environment by means of discharge to a sanitary sewerage system.

Ellen Weitzler, P.E.
Environmental Engineer
US EPA Region 1 (CIP)
One Congress Street
Boston, MA 02114
Tel 617-918-1582
FAX 617-918-1505